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MYERS DAWES ANDRAS & SHERMAN, LLP 19900 MACARTHUR BLVD., SUITE 1150 IRVINE, CA 92612			BELIVEAU, SCOTT E	
		ART UNIT	PAPER NUMBER	
		2614		

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/759,721 Examiner Scott Beliveau	KIM, YEONG-TAEG Art Unit 2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 18 April 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-32 is/are pending in the application.  
 4a) Of the above claim(s) 16-27 and 30-32 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-15, 28 and 29 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 18 April 2005 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings were received on 18 April 2005. These drawings are approved.

### ***Election/Restrictions***

2. Newly submitted claims 16-27 and 30-32 are directed to an invention that is independent or distinct from the invention originally claimed. Originally presented claims 1-16 were directed towards the disclosed first preferred embodiment designated as the “Banner Information preferred embodiment” (IA: Page 17, Lines 20 – Page 20, Line 11). Newly presented claims 16-27 and 30-32 are directed towards the disclosed second preferred embodiment designated as the “Background Commercial Preferred Embodiments” (IA: Page 20, Line 12 – Page 35, Line 4) and various species of that embodiment therein. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 16-27 and 30-32 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Response to Arguments***

3. The OFFICIAL NOTICE presented as to the existence of service agreements (ex. quarterly/monthly/yearly subscriptions) that “allow” viewers to watch distributed programming and “provide for a limitation on the subscription charged to the end user” was not adequately traversed and is accordingly taken as an admission of fact. Applicant’s

traversal with respect to the OFFICIAL NOTCE was directed towards whether or not the particular usage of service agreements in conjunction with the video distribution system of Butler et al. involved impermissible hindsight as opposed to whether or not the fact for which the OFFICIAL NOTICE was taken was notoriously well known in the art.

4. Applicant's arguments with respect to claims 1-15 have been considered but are moot in view of the new ground(s) of rejection.

With respect to applicant's arguments such that the "Banner Information" of the instant application is different from that of Butler et al., the examiner respectfully disagrees. The instant application as originally filed clearly sets forth that "Banner Information" is defined as contents in the form text, graphics, images, or any other type of audio visual information which is intended for commercial advertisement and can be presented to the user with any other type of digital television presentation (IA: Page 16, Line 14-16). Butler et al. sets forth that "hyperlink overlays" are similar to documents or web pages [Para. 0022] and assuming arguendo that the particular intended usage of "Banner Information" must be given weight in view of the definition the Butler et al. reference clearly suggests that such can be utilized for advertisements (Para. [[0004] and [0046]]). "Banner Information" as defined within the specification is not limited to whether or not the overlays are rendered either in the foreground or the background of the video images.

With respect to applicant's arguments pursuant to claim 9 such that Butler fails to meet the particular limitation of distributing a "combined" signal comprising both regular programming and the "Banner Information" the examiner respectfully disagrees. The Butler et al. reference discloses the distribution of both types of information using the same

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distribution system/channel (ex. satellite broadcasts) accordingly the system distributes a “combined” signal which comprises the plurality of information associated with the various distribution streams. Furthermore, the reference discloses that the supplemental information or “Banner Information” may be distributed as part of the ancillary data sent connection with the regular programming in the MPEG-2 distribution stream (Para. [0015] and [0028]).

With respect to applicant's arguments regarding claim 12, that the Butler et al. reference fails to enable the simultaneous display of the Banner Information and the regular programming on the presentation unit, the examiner respectfully disagrees. The Butler et al. reference clearly sets forth the particular usage of non-transparent overlays which serve to be simultaneously presented in conjunction with the displayed video (Para. [0043] – [0044]). As to applicant's arguments, such that the receiver [14] of Butler et al. is patentably distinct from the specialized components associated with the receiver of the instant application, applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

With respect to applicant's argument that the examiner's conclusion of obviousness in connection with claims 2-8, 13-15, 17-20 is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). The Butler et

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al. reference explicitly discloses the usage of MPEG-2 which as known in the art sets forth the particular usage and distribution of either program streams (PS) or transport streams (TS). As noted in the instant application the methods of generating, multiplexing, and sending TS packet signals are done so in accordance with the MPEG-2 international standard ISO/IEC 13818-1 wherein the particular process by which MPEG-2 TS are generated is noted as being known in the art as set forth in the MPEG-2 standard adopted on 04 November 1994.

Accordingly, why would one having ordinary skill in the art not employ the teachings of the MPEG-2 standard as known in the art as noted by applicant in connection with the MPEG-2 distribution of both regular programs and “Banner Information” in the form of supplemental content with Butler et al.?

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, as set forth in the grounds of rejection, the Butler et al. reference clearly suggests the usage of the MPEG-2 encoding. As aforementioned, why would one in conjunction with MPEG-2 encoding/distribution not utilize the standard in view of the explicit disclosure of the usage of MPEG-2 encoding/distribution by Butler et al. Furthermore, as previously set forth in the previous grounds of rejection, one would be particular motivated so as to employ the particular usage of transport stream (TS)

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packetization for the inherent advantages associated with such including providing the robustness necessary for noisy channel distribution such as those employed by satellite distribution and to further provide improved error resilience with the ability to carry multiple programs simultaneously without requiring a common time base. The existence of such a motivation as to the particular usage of transport streams (TS) (as opposed to program streams) in association with MPEG-2 distribution systems is knowledge generally available to one of ordinary skill in the art is evidenced in the enclosed MPEG-2 standard (Introduction – PART 1 Systems).

With respect to applicant's further arguments per claim 3, the applicant argues that the system fails to utilize any "modulation function". The examiner respectfully disagrees. The reference discloses that the system comprises a digital satellite broadcast system wherein the digital signals are distributed on multiple RF frequencies or channels (Para. [0013]). The distribution of digital satellite signals requires "modulation" in order to distribute them on an RF frequency or carrier channel.

With respect to applicant's further arguments regarding claims 4-7, 13, 14, and 17-20, applicant's argue that the tuner [60] of Butler and the video subsystem [66] of Butler et al. fail to meet the limitations of a several claimed elements. It is the examiner's position that such elements are required by the receiver so as to process an MPEG-2 encoded TS digital signal. For example, given that the multiplexed signal is RF modulated onto a carrier as distributed over a satellite distribution path, how does the receiver [14] and extract and process the signal without demodulating, demultiplexing/depacketizing, and decoding the received signal. Given that the particular processing is performed in conjunction with the

formulation of the distributed MPEG-2 encoded TS, it would follow that the reverse process would need to be performed by the receiver in order to render the received content.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 9, 12, 28, and 29 are rejected under 35 U.S.C. 102(e) as being anticipated by Watts et al. (US Pat No. 6,324,694 B1).

In consideration of claim 1, Figures 1 and 5 of the Watts et al. reference illustrates a “digital video service network” [107] comprising a “means for providing a combined digital signal” having “information reflective of a regular program signal” and a “Banner Information signal” or supplementary data in the form of text, graphics, images, or any other type of audio visual information which is intended for commercial advertisement whereupon the aforementioned “combined digital signal” is distributed via a “channel . . . communicating the combined digital signal from the means for providing a combined digital signal to the receiver” (Col 2, Line 53 – Col 4, Line 36; Col 5, Lines 28-33). The aforementioned, “combined digital signal” is subsequently “received” via a “receiver” [500] or set-top box with an associated “presentation unit” or display [502] which “presents . . . the Banner Information . . . with the regular program” based upon a “controller” [141] that “controls the

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presentation unit to display the Banner Information with the regular program upon permission only" (Col 8, Lines 17-29; Col 9, Lines 31-38).

Claim 9 is rejected as aforementioned in light of the Watts et al. reference. As aforementioned, Figure 1 of the Watts et al. reference illustrates a "method for providing digital television programming to viewers" comprising "creating a combined digital television signal which combines information reflective of regular programming and information reflective of Banner Information" (Col 4, Lines 34-36; Col 5, Lines 28-33) which is subsequently "transmitted . . . over a channel" associated with the video distribution system and "received" at a "receiver" [500] (Figure 5) and "provided to a presentation unit" [502]. The "information reflective of the regular programming and the information reflective of the Banner Information are displayed simultaneously on the presentation unit" based upon a "controller" [141] that "controls the presentation unit to display the Banner Information with the regular program upon permission only" (Col 3, Line 34 – Col 4, Line 23; Col 8, Lines 17-29; Col 9, Lines 31-38).

Claim 12 is rejected wherein the user is "provided a receiver . . . which specifically enables the simultaneously display of the Banner Information and the regular programming on the presentation unit" in connection with the necessary hardware to receive and decode the primary and secondary information. As illustrated in Figure 5, such a receiver may comprises a "set-top" box or other form of receiver unit (Col 9, Lines 50-64).

Claim 28 is rejected in light of the Watts et al. reference wherein the "permission" is implicitly "provided by a user who is a viewer of the regular program" (Watts et al.: Col 8, Lines 17-29) given that the user is equated with being a viewer of television programming.

Claim 29 is rejected in wherein “if there is no permission the controller controls the presentation unit to display the regular program without the Banner Information” (Col 9, Lines 32-39).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 9-12, 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Butler (US Pub No. 2002/0007493 A1) in view of Watts et al. (US Pat No. 6,324,694 B1).

In consideration of claim 1, Figure 1 of the Butler et al. reference illustrates a “digital video service network” [10] comprising a “means for providing a combined digital signal” [12] having “information reflective of a regular program signal” and a “Banner Information signal” or ancillary data in the form of HTML advertisement overlays (Para. [0004], [0015], and [0020]) via a “channel communicating the combined digital signal from the means for providing a combined digital signal to the receiver” (Para. [0013]). The aforementioned, “combined digital signal” is subsequently “received” via a “receiver” with an associated “presentation unit” or display [68] which “presents . . . the Banner Information . . . with the regular program” (Para. [0004] and [0036]).

With respect to the limitation pertaining to the usage of a “controller”, the Butler et al. reference comprises a “controller” [52] that “controls the presentation unit to display the

Banner Information with the regular program”, however the reference is silent with respect to such being performed “upon permission only”. In a related art pertaining to interactive distribution systems, the Watts et al. reference discloses a method for distributing a “combined digital signal having information reflective of a regular program signal and a Banner Information signal” including a “controller” [141] that “controls the presentation unit to display the Banner Information with the regular program upon permission only” (Watts et al.: Col 2, Line 63 – Col 4, Line 35; Col 5, Lines 28-33; Col 8, Lines 17-29; Col 9, Lines 31-38). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify Butler et al. so as to further provide the ability for the user so as to enable/disable or to give “permission” to display received supplemental content for commonly known advantage of providing the user with improved flexibility with respect to the presentation of supplemental information. For example, such a means may advantageously provide the user with the ability to turn-off “Banner Information” or supplemental content should they desire not to be bothered by such pop-up information.

In consideration of claim 9, Figure 4 of the Butler et al. reference discloses a “method for providing digital television programming to viewers” comprising “creating a combined digital television signal which combines information reflective of regular programming” [220] and “information reflective of Banner Information” [226] which is subsequently “transmitted . . over a channel” (Para. [0013] and [0050] – [0053]). The aforementioned “transmitted, combined digital signal” is subsequently “received” [230] at a “receiver” [14] (Figure 5) and are “provided to a presentation unit” [68] such that the “information reflective

of the regular programming and the information reflective of the Banner Information are displayed simultaneously on the presentation unit" (Para. [0004] and [0036]).

With respect to the limitation pertaining to the usage of a "controller", the Butler et al. reference comprises a "controller" [52] that "controls the presentation unit to display the Banner Information with the regular program", however the reference is silent with respect to such being performed "upon permission only". In a related art pertaining to interactive distribution systems, the Watts et al. reference discloses a method for distributing a "combined digital signal having information reflective of a regular program signal and a Banner Information signal" including a "controller" [141] that "controls the presentation unit to display the Banner Information with the regular program upon permission only" (Watts et al.: Col 2, Line 63 – Col 4, Line 35; Col 5, Lines 28-33; Col 8, Lines 17-29; Col 9, Lines 31-38). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify Butler et al. so as to further provide the ability for the user so as to enable/disable or to give "permission" to display received supplemental content for commonly known advantage of providing the user with improved flexibility with respect to the presentation of supplemental information. For example, such a means may advantageously provide the user with the ability to turn-off "Banner Information" or supplemental content should they desire not to be bothered by such pop-up information.

In consideration of claims 10 and 11, the Butler et al. reference does not explicitly disclose the particular usage of "entering into an agreement with end-users which allows for" the aforementioned "simultaneous display of the Banner Information and the regular programming on the presentation unit" wherein "the agreement provides for a limitation on

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the subscription charged to the end user. Applicant's admission of fact provides evidence as to the existence of service agreements (ex. quarterly/monthly/yearly subscriptions) that "allow" viewers to watch distributed programming and "provide for a limitation on the subscription charged to the end user" is notoriously well known in the art of video distribution and in particular DBS services utilized by Butler et al. For example, services provides such as DirectTV® and DishNetwork® routinely establish service agreements whereby access to distributed program content is limited to those users which pay a certain fixed monthly fee. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Butler et al. so as to employ the aforementioned service agreements for the inherent advantages associated with such including the ability of the service provider to profit from the distributed video programming.

Claim 12 is rejected wherein the user is "provided a receiver . . . which specifically enables the simultaneously display of the Banner Information and the regular programming on the presentation unit" in connection with the necessary hardware to receive and decode DBS signals (Para. [0002]). As aforementioned, in light of the combined references the "provided receiver" further "allows the controlling the presentation unit to display the Banner Information with the regular program only upon permission" (Watts et al.: Col 8, Lines 17-29; Col 9, Lines 31-38).

Claim 28 is rejected in light of the Watts et al. reference wherein the "permission" is implicitly "provided by a user who is a viewer of the regular program" (Watts et al.: Col 8, Lines 17-29) given that the user is equated with being a viewer of television programming.

Claim 29 is rejected in wherein “if there is no permission the controller controls the presentation unit to display the regular program without the Banner Information” (Col 9, Lines 32-39).

9. Claims 2-8, 13-15, and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Butler et al. (US Pub No. 2002/0007493 A1) in view of applicant’s admitted prior art (APA) relating to the MPEG-2 Standard.

In consideration of claim 2, the Butler et al. reference discloses the particular usage of MPEG-2 in connection with the “providing” / distribution [12] of the combined digital signal (Para. [0015]). The reference, however, does not explicitly disclose details associated with the implementation of the standard including the creation of a “TS packetized” stream. Applicant’s admitted prior art discloses that the particular usage of TS packetization as defined in the MPEG-2 Standard is well known in the art (IA: Page 18, Lines 18-20). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to “create a TS packetized combined digital signal” in connection with complying with the MPEG-2 standard for the inherent advantages associated with such including providing the robustness necessary for noisy channel distribution such as those employed by satellite distribution.

In consideration of claims 3 and 15, as aforementioned, the Butler et al. reference particularly discloses the usage of the MPEG-2 in connection with the distribution of a multiplexed digital signal. The reference, however, does not particularly disclose the details pertaining to the construction of a TS in accordance with the MPEG-2 standard (Para [0015]). Applicant’s admitted prior art discloses that the MPEG-2 standard discloses details

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pertaining to the packetizing, multiplexing and sending of coded bit streams of multiple programs wherein multiple programs with audio and video overlays may be transmitted by a service provider and received by the end user (IA: Page 3, Lines 4-10). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to particularly utilize "a first coding unit for coding the regular program signal and a second coding unit for coding the Banner Information signal, a first TS packetization unit for receiving the coded regular program signal and providing a packetized bit stream reflecting the coded regular program signal and a second TS packetization unit for receiving the coded Banner Information signal and providing a packetized bit stream reflecting the coded Banner Information signal, a TS Packet multiplexer for receiving the packetized regular program signal and the packetized Banner Information signal and providing a multiplexed transport stream" for the purpose of providing a means so as to facilitate the encoding, packetizing, multiplexing, and providing of an MPEG-2 TS in accordance with the MPEG-2 standard and the associated inherent advantages associated with such including the ability to distribute video with improved error resilience plus the ability to carry multiple programs simultaneously without requiring a common time base.

With respect to the particular limitation of a "channel modulation unit for modulating the transport stream into the combined digital signal and sending the combined digital signal for transmission to the channel", the Butler et al. reference implicitly comprises such given that the receiver utilizes a particular channel for the reception of the combined stream (Para. [0032]) and the source distributes the content over a particular channel (Para. [0013]).

In consideration of claims 4-7, 13, 14, and 17-20, as aforementioned the Butler et al. reference discloses the particular usage of the MPEG-2 standard in connection with the processing of the received data wherein the particular utilization of a “TS packetized” streams in accordance with the standard would have been an obvious modification in order to provide the robustness necessary for noisy channels distribution channels such as those employed by satellite distribution. As illustrated in Figure 2, the “receiver” [14] further implicitly employs the claimed means for the purpose of demodulating, demultiplexing, depacketizing, decoding, and rendering an MPEG-2 packetized TS for the purpose of rendering the received MPEG-2 TS in accordance with the MPEG-2 standard. In particular, the receiver comprises a “channel demodulation unit for demodulating the received combined digital signal and extracting bit streams of the regular program signal and the Banner Information signal from a user-tuned channel” [60], “a TS demultiplexing unit for demultiplexing the regular program bitstream and Banner Information TS packets from the signal received from the channel demodulation unit” [60], “a Banner Information TS depacketizer for receiving the Banner Information TS packets from the TS demultiplexing unit and depacketizing the Banner Information TS packets to provide a coded Banner Information signal” [66], “a Rendering Unit for decoding and rendering the coded Banner Information into a bitmap video signal” [66], “a video reconstruction unit for receiving the rendered Information bitmap video signal and creating an output for the presentation device” [66], “Audio/video decoders for receiving the regular program bitstream from the TS demultiplexing unit . . . decoding audio and video coded bit streams of the regular program signal . . . [and] sending an Audio output signal for transducing into sound and a decoded

video signal to the video reconstruction unit” [66], “the video reconstruction unit reconstructing an output video signal from the decoded video output and the rendered Banner Information bitmap video signal . . . [and] sending the video output signal” [66] to “the video presentation device” [68] for “display where the regular program and the Banner Information are displayed simultaneously” (Para. [0032] – [0039]).

In consideration of claim 8, the claimed limitation do not set forth any over and above those addressed in the combined rejections of claims 1, 3, and 4 and is accordingly rejected as previously set forth. In particular, Figure 1 of Butler et al. illustrates a “digital video service network” [10] comprising a “means for providing” [12], a “receiver” [14], and a “channel for communicating the combined digital signal from the means for providing” (Para. [0013]). As aforementioned, while Butler et al. provides a “controller” [52] that “controls the video reconstruction unit to display the Banner Information with the regular program”, the reference is silent with respect to such being performed “upon permission only”. In a related art pertaining to interactive distribution systems, the Watts et al. reference discloses a method for distributing a “combined digital signal having information reflective of a regular program signal and a Banner Information signal” including a “controller” [141] that “controls the video reconstruction unit to display the Banner Information with the regular program upon permission only” (Watts et al.: Col 2, Line 63 – Col 4, Line 35; Col 5, Lines 28-33; Col 8, Lines 17-29; Col 9, Lines 31-38). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify Butler et al. so as to further provide the ability for the user so as to enable/disable or to give “permission” to display received supplemental content for commonly known

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advantage of providing the user with improved flexibility with respect to the presentation of supplemental information. For example, such a means may advantageously provide the user with the ability to turn-off "Banner Information" or supplemental content should they desire not to be bothered by such pop-up information.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Beliveau whose telephone number is 571-272-7343. The examiner can normally be reached on Monday-Friday from 8:30 a.m. - 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SEB  
July 22, 2005



JOHN MILLER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600